

a reflector configured to direct the two components from the birefringent element assembly back through another birefringent element assembly; and

wherein each spatial birefringent element defines two light paths, each light path having a different optical path length and wherein a difference in optical path length between the two paths is provided by a material having an index of refraction greater than one which is disposed within at least a portion of one of the first and second paths.

26. (new) The interleaver as recited in claim 25, wherein the birefringent element assembly comprises a plurality of spatial birefringent elements.

27. (new) The interleaver as recited in claim 25, wherein the birefringent element assembly comprises a first birefringent element having an equivalent angular orientation of  $\phi_1$ , a second birefringent element having an equivalent angular orientation of  $\phi_2$  and a third birefringent element having an equivalent angular orientation of  $\phi_3$ ;

wherein an order of the first birefringent element, second birefringent element, and third birefringent element is selected from the group consisting of:

first birefringent element, second birefringent element, third birefringent element;

third birefringent element, second birefringent element, first birefringent element; and

wherein the equivalent angular orientations are with respect to an equivalent polarization direction of light entering the birefringent element assembly.

28. (new) The interleaver as recited in claim 25, wherein the birefringent element assembly and the reflector are configured so as to facilitate interleaving of a plurality of input light beams simultaneously.

29. (new) The interleaver as recited in claim 25, wherein the interleaved channels have spacing which is tunable.

30. (new) An interleaver comprising:

a birefringent element assembly comprising at least one spatial birefringent element, the birefringent element assembly providing two output components;  
a reflector configured to direct the two components from the birefringent element assembly back through the birefringent element assembly; and  
wherein each spatial birefringent element defines two light paths and wherein an index of refraction is different for at least a portion of at least one of the two light paths so as to cause the two light paths to have different optical path lengths.

31. (new) The interleaver as recited in claim 30, wherein the reflector comprises a prism.
32. (new) The interleaver as recited in claim 30, wherein the birefringent element assembly comprises a plurality of spatial birefringent elements.
33. (new) The interleaver as recited in claim 30, wherein the birefringent element assembly and the reflector are configured so as to facilitate interleaving of a plurality of input light beams simultaneously.

### REMARKS

This is a response to the Office Action mailed September 12, 2002. Original claims 1-24 have been canceled from the application and new claims 25-33 have been added.

In the Office action, the Examiner rejected Claims 1, 3, 5-24 under 35 U.S.C. 102(b) as being anticipated by Li (6,212,313) and rejected Claims 2 and 4 under 35 U.S.C. 103(a) and being unpatentable over Li.

However, Applicant respectfully submits that the Li reference neither discloses nor makes obvious configurations of spatial birefringent elements recited in the claims of the subject patent application. Moreover, the Li reference teaches the construction of an